

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

D'ANNIE ISRA EL,

Plaintiff,

v.

**CIVIL NO. 1:23-CV-95
(KLEEH)**

**USAA, MR. COOPER, and
RIGHTPATH SERVICING,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 14] AND
DISMISSING ACTION WITHOUT PREJUDICE**

On November 22, 2023, the pro se Plaintiff, D'annie Isra El ("Plaintiff"), filed a Complaint against the Defendants, USAA, Mr. Cooper, and RightPath Servicing ("Defendants"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Alois (the "Magistrate Judge") for initial review. On March 28, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice for failure to serve Defendants.

The R&R informed Plaintiff that she had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned her that the "[f]ailure to timely

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file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Plaintiff accepted service of the R&R on April 2, 2024. She filed objections on April 17, 2024. The Court accepts them as timely.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

In her objections, Plaintiff writes that she has not received the summons forms from the Clerk. Reviewing this issue de novo, and reviewing the docket, the Court finds that the Clerk's office mailed the summonses to Plaintiff. See ECF Nos. 6-8. The Court has also reviewed the remainder of the R&R for clear error. Upon careful review, the Court **ADOPTS** the R&R [ECF No. 14]. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court's active docket.

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It is so ORDERED.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested.

DATED: May 3, 2024

Tom S Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA